

(2022) 12 DEL CK 0270

In the Delhi High Court

Case No : Civil Writ Petition No. 9834 Of 2022

M/S. Vallabh Textiles

APPELLANT

Vs

Senior Intelligence Officer And Ors

RESPONDENT

Date of Decision : 20-12-2022

Acts Referred:

Central Goods & Service Tax Rules, 2017 — Section 142, 142(1), 142(1A), 142(2)
Central Goods and Services Tax Act, 2017 — Section 50, 67(5), 73, 73(1), 73(3),
73(4), 73(5), 73(6), 73(7), 73(8), 74, 74(1), 74(5), 76(6), 79

Citation : (2022) 12 DEL CK 0270

Hon'ble Judges : Rajiv Shakdher, J; Tara Vitasta Ganju, J

Bench : Division Bench

Advocate : Vivek Sarin, Dibya Prashant Singh, Satish Kumar, Anushree Narain

Final Decision : Disposed Of

Judgement

Rajiv Shakdher, J

Preface:

1. The sole question which arises for our consideration is: whether the cumulative sum of Rs.1,80,10,000/- deposited on behalf of the petitioner-concern, during search proceedings carried out between 16.02.2022 and 17.02.2022, was a voluntary act or not.

2. The petitioner claims, that the aforementioned amount was deposited in four (4) tranches, between 01:28 A.M. and 07:03 A.M. on 17.02.2022.

3. It is the petitioner's case, that the search commenced at about 03:30 PM on 16.02.2022 and ended at 09:30 AM on 17.02.2022.

4. Respondents no. 1 and 2 ["official respondents"]/revenue, however, contend to the contrary.

4.1 It is the official respondents/revenue's broad stand, that the aforementioned amount was deposited against challan(s) submitted in the prescribed form i.e.,

Form GST DRC-03, each of which is dated 17.02.2022.

5. The official respondents/revenue, thus, take the position, that the allegation of coercion is an afterthought, which was raised only on 25.05.2022 after summons had already been served on the petitioner-concern.

6. The principal controversy in the matter was noticed, when the matter was listed before the Court for the first time on 05.07.2022. On that date, notice was issued in the petition. The official respondents/revenue were represented by Mr Satish Kumar, senior standing counsel who appeared on behalf of respondents no. 1 and 2, and Ms Anushree Narain, who appeared on behalf of respondent no.3.

7. It is pertinent to note, at this juncture, that on the returnable date i.e., 26.08.2022, Mr Vivek Sarin, who appears on behalf of the petitioner-concern confined the relief sought in the writ petition to prayer clause (a), which concerns, in effect, the relief for return of Rs.1,80,10,000/- along with statutory interest, deposited on behalf of petitioner-concern.

7.1 Consequently, it was indicated to us, that other reliefs will not be pressed in the instant writ action.

Background:

8. Before we proceed further, it would be relevant to etch out the broad backdrop in which the present writ petition has been preferred.

9. The petitioner-concern, which is in the business of trading in Ready-Made Garments (RMG) is also engaged in selling these very goods on behalf of third parties, albeit in the domestic market, on a commission basis.

10. It is alleged by the official respondents/revenue, that the petitioner-concern, inter alia sold goods, in cash, on behalf of two entities i.e., Empire Apparels Pvt. Ltd. ("EAPL") and M/s Navrang Enterprises ("NE"), during the period spanning between July 2017 and February 2022.

11. The official respondents/revenue claim that the RMGs sold, in cash, on behalf of the aforementioned entities by the petitioner-concern were worth Rs.149.90 crores against which it received by way of a commission [at the rate of 5%] Rs.7.50 crores. It is alleged that the commission was also received in cash.

11.1 Thus, according to the official respondents/revenue, the petitioner-concern failed to disclose the said cash transactions, and pay the requisite tax on the commission earned by it.

12. It was because of this intelligence which was received by the official respondents/revenue, that a search at the petitioner-concern's premises was conducted between 16.02.2022 and 17.02.2022.

12.1 The said premises, as per the stand of the official respondents/revenue, was unregistered.

13. It is also the official respondents/revenue's case, that at the time of the search, one Mr Sumit Jain i.e., the manager and authorized representative of the petitioner-concern was found at its premises.

14. The official respondents/revenue claim, that amongst other things, it was discovered that the petitioner-concern maintained a ledger concerning cash sales, albeit in soft form, in a laptop, which was ultimately resumed by them.

14.1 This apart, it is also averred by the official respondents/revenue, that the ledger contained the details such as the party to whom the cash sale was made, the name of the transporter, date of sale, transporter name, lorry receipt number of the transporter, as also information concerning the value of the sales transactions, and the commission earned on such transactions.

15. It appears, that the officers carrying out the search, apart from the laptop, also resumed various registers, physical bill books and documents, which according to them, contained details of clandestine clearances made by the petitioner-concern.

16. Evidently, a panchnama was drawn on 17.02.2022, which bears the signatures of Mr Sumit Jain, and two other persons i.e., one Mr Deepak Kumar Jha [pancha no.1] and one Mr Anil Kumar [pancha no.2], who the official respondents/revenue claim, were independent witnesses to the search proceedings.

17. The official respondents/revenue also aver, that simultaneous searches were carried out at the premises of NE and EAPL, whose goods, as indicated above, were allegedly sold, in cash, by the petitioner-concern.

17.1 It is stated, that the search at the premises of NE and EAPL was carried out on 16.02.2022.

18. Apparently, statements of the proprietor of NE i.e., one Mr Kamal Kishor Karnani, and the Director of EAPL, namely one Mr Vinod Baid were recorded.

18.1 These statements, as per the official respondents/revenue, confirm that the aforementioned entities had their goods sold in cash via the petitioner-concern, for which it was paid a commission.

18.2 The said statements, according to official respondents/revenue, also reveal that the petitioner-concern was paid a commission at the rate of 5%.

19. It is further averred, that the result of this exercise was, that NE deposited with the official respondents/revenue Rs.1.15 crores, which included tax, interest and penalty.

19.1 This amount, it is stated, was deposited via a prescribed challan i.e., DRC-03, dated 17.02.2022.

20. It is claimed, that likewise, EAPL voluntarily deposited with the official respondents/revenue Rs.1.32 crores, which also included tax, interest and

penalty.

20.1 The deposit, it is stated, was made via a challan i.e., DRC-03 on 17.02.2022.

21. It is averred by the official respondents/revenue, that Rs.1,80,10,000/-which has been deposited by the petitioner-concern, included the following components:

(i) Tax at the rate of 18% on the commission earned during the relevant period i.e., Rs.7.49 crores; quantified at Rs.1.35 crores.

(ii) Interest amounting to Rs.24,85,000/-

(iii) Penalty at the rate of 15% amounting to Rs.20,25,000/-.

Submissions of the counsels:

22. Given this backdrop, submissions were advanced by the counsel for the parties.

22.1 On behalf of the petitioner-concern, the submissions made, can be paraphrased as follows:

22.2 The deposit of Rs.1,80,10,000/- was not voluntary. The statements and documents, on which the signatures of Mr Sumit Jain were obtained on 17.02.2022 and 24.02.2022, were a product of coercion.

22.3 Since the copies of documents have not been furnished till today, the official respondents/revenue have contravened the provisions of Section 67(5) of the CGST Act, 2017 [hereafter referred to as "2017 Act"].

22.4 Between 16.02.2022 and 17.02.2022, when the search was carried out, CCTV cameras were switched off. The enquiry conducted on 24.02.2022 was not backed by camera recording.

22.5 The so-called independent witnesses were connected to the official respondents/revenue. Mr Deepak Kumar Jha was a computer operator, working in tandem with the official respondents, while Mr Anil Kumar was seen to be driving the vehicle of one of the officers included in the search party. This has resulted in the violation of Instruction No.1/20-21 [GST-Investigation] dated 02.02.2021 issued by the Ministry of Finance, Department of Revenue, Central Board of Indirect Taxes and Customs, GST-Investigation Wing.

22.6 The deposit made during the search was in contravention of the provisions of Rule 142(1A) and 142(2) of the Central Goods & Service Tax Rules, 2017 [hereafter referred to as "2017 Rules"]; the assertion being that there was no notice issued by the proper officer, ascertaining the tax, interest and penalty payable by the petitioner-concern, as envisaged under sub-rule (1A) of Rule 142; and if it is to be assumed, for the sake of argument, that the petitioner-concern's representative made an ascertainment on his own concerning tax, interest and penalty that was required to be paid, upon payment being made, the proper officer was obliged in law to issue an acknowledgement qua the same in the

prescribed form i.e., GST DRC-04 as stipulated in sub-rule (2) of that very rule i.e., Rule 142.

22.7 The deposit of the aforementioned amount, if construed as having been preceded by self-ascertainment, a show-cause notice cannot possibly be issued. The petitioner-concern's representatives are, however, repeatedly being summoned, for enquiries and/or investigations.

22.8 These actions taken on behalf of the official respondents/revenue are inconsistent with the provisions of Section 74(5) of the 2017 Act, which provides for self-ascertainment before service of notice under sub-section (1) of the said section i.e., section 74 of the 2017 Act.

22.9 Section 76(6) of the 2017 Act, in no uncertain terms, provides that no notice under sub-section (1) of the said section will be issued in respect of the tax so paid or any penalty payable, either under the 2017 Act, or the 2017 Rules made thereunder.

22.10 In seeking a deposit of the aforementioned amount while the search proceedings were on, the official respondents/revenue have violated Instruction No. 01/2022-2023 dated 25.05.2022, issued by the GST-Investigation Wing.

22.11 Bearing in mind the circumstances in which the aforementioned amount was deposited, the fact, that there was coercion, is revealed by the flagrant violation of safeguards provided in law. In this context, it is required to be noticed, that when Mr Sumit Jain presented himself before the concerned officer on 24.02.2022, pursuant to the summons dated 22.02.2022, he was detained for several hours, and was allowed to leave only after he had appended his signatures on the documents [trading account, party-wise ledger and pen drive], copies of which were also not provided to the petitioner concern.

22.12 It is in these circumstances, that the petitioner-concern, via letter dated 25.05.2022 indicated to respondent no.1, that statements said to have been made by Mr Sumit Jain, and documents supposedly signed by him, were the result of coercion exerted on him.

23. In rebuttal, Mr Satish Kumar, who appears on behalf of the official respondents/revenue, drew our attention to the assertions made in the pleadings filed in the case, to demonstrate that the petitioner-concern was avoiding payment of tax, by making cash sales, on behalf of NE and EAPL.

23.1 It was emphasized, as noted hereinabove, that Mr Sumit Jain, the authorized representative of the petitioner-concern had accepted that goods were sold in cash to third parties worth Rs.149.90 crores, on which commission amounting to Rs.7.49 crores, in cash, was earned.

23.2 The fact that NE and EAPL had accepted, that such transactions took place during the period in issue, and had deposited amounts, as noted above, towards tax, interest and penalty on 17.02.2022 would show that the aforementioned

amounts were deposited by the petitioner concern voluntarily on 17.02.2022.

23.3 The objection concerning the deposit of the aforementioned amount was taken only after the second summon was issued i.e., summon dated 13.04.2022. The retraction of the statement made by Mr Sumit Jain, along with the other documents, was communicated after more than a month of the summon dated 13.04.2022 being issued i.e., on 25.05.2022.

Analysis and reasons:

24. Having heard the learned counsel for the parties, it is quite evident, that the issue at hand can only be determined, having regard to the circumstances in which the aforementioned amount was deposited.

24.1 In this context, one would have to bear in mind, the safeguards, that the law has put in place.

25. The 2017 Act and the 2017 Rules made therein, do make provisions for enabling a person chargeable with tax to pay tax, along with interest, before being served with a notice for payment of tax, which either has not been paid or short paid or erroneously refunded or where input tax credit has been wrongly availed or utilized for any reason [See: Sub-section (1) read with (5) of Section 73.].

25.1 Thus, if the person chargeable with tax takes recourse to such a route, the proper officer is restrained from serving any notice qua tax or penalty under the provisions of the 2017 Act or the 2017 Rules framed thereunder, [See Sub-section (6) of Section 73 of the 2017 Act.] unless the amount which is self-ascertained by the person chargeable with tax falls short of the amount payable as per law [See Sub-section (7) of Section 73 of the 2017 Act.].

25.2 This leeway is also available, where the person chargeable with tax is served with a show cause notice and pays the tax, along with interest, under Section 50 of the 2017 Act within thirty [30] days of the issue of the show-cause notice. [See Sub-section (8) of Section 73 of the 2017 Act.] In such eventuality, a penalty is not leviable, and all proceedings in respect of such notice are deemed to be concluded.

26. This regime is set out in Section 73 of the 2017 Act.

27. Broadly, this regime also applies, where a notice has been issued under sub-section (1) of Section 73, and the proper officer serves a statement containing details of tax not paid or short paid or erroneously refunded or input tax credit wrongly availed or utilized for such periods other than those covered under sub-section (1) of Section 73. [See Sub-section (3) & (4) of Section 73 of the 2017 Act.]

27.1 The important aspect to be kept in mind, is that the regime given in Section 73 of the Act operates in cases which do not involve fraud or wilful-misstatement or suppression of facts to evade tax.

28. In cases which involve one or more of the aforementioned ingredients i.e., fraud, wilful misstatement or suppression of facts to evade tax, para materia provisions are contained in Section 74 of the 2017 Act, with small variations.

28.1 In these cases as well, latitude has been given to the person chargeable with tax, to pay monies towards tax, along with interest, based on self-ascertainment, before issuance of notice under sub-section (1) of Section 74 of the 2017 Act, with a caveat that fifteen per cent of such self-ascertained tax is required to be paid by way of penalty. [See Sub-section (5) of Section 74 of the 2017 Act.]

28.2 The penalty amount increases if amounts towards tax and interest are paid by the person chargeable with tax within thirty [30] days of the notice being issued by the proper officer under sub-section (1) of Section 74 of the 2017 Act. The person concerned is required to pay a penalty at the rate of twenty-five per cent within the aforesaid timeframe i.e., 30 days, upon which all proceedings in respect of such notice are deemed to be concluded. [See Sub-section (8) of Section 74 of the 2017 Act.]

29. These provisions have to be read alongside Rule 142, found in Chapter XVIII of the 2017 CGST Rules.

29.1 The said chapter bears the heading "Demands and Recovery".

30. Sub-rule (1) of Rule 142 of the 2017 Rules makes a provision for service of notice for raising a demand for recovery of tax; a provision which we are not concerned with in this matter, as it is not the case of the official respondents/ revenue that a notice was served.

30.1 Besides this, the two sub-rules which are, perhaps, relevant are sub-rule (1A) and (2) of Rule 142, as they relate to the steps required to be taken before service of notice on the person chargeable with tax, interest and penalty under sub-section (1) of Section 73, or under sub-section (1) of Section 74 of the 2017 Act.

31. Under sub-rule (1A) of Rule 142 of the 2017 Rules, where a proper officer, before service of notice under Section 73(1) or Section 74(1) of the 2017 Rules seeks to communicate details of tax, interest or penalty, he is required to do so in the prescribed form i.e., via Part A of Form GST DRC-01A. [See Rule 142(1A) of the 2017 Rules.]

31.1 Where, however, before service of notice or statement, the person chargeable with tax, based on self-ascertainment, seeks to make payment of tax and interest, in consonance with the leeway given under sub-section (5) of Section 73 [which relates to cases not involving fraud, wilful misstatement or suppression of facts to evade tax] or as the case may be, the payment of tax, interest and penalty under sub-section (5) of Section 74 [which relates to cases involving fraud, wilful misstatement or suppression of facts to evade tax], he is required to inform the proper officer of such payment made in the prescribed

form i.e., GST DRC-03. [See Rule 142(2) of the 2017 Rules.]

31.2 The proper officer thereafter, is required to issue an acknowledgement, accepting the payment made by the person, also in the prescribed form i.e., GST DRC-04.

31.3 This is also required to be done [i.e., the acknowledgement of acceptance of payment] where tax, interest and penalty are ascertained by the proper officer, under Rule 142(1A).

32. Clearly, the facts which have emerged, disclose that although payments were made in the prescribed form i.e., GST DRC-03, no document has been placed on record by the official respondents/revenue, demonstrating acknowledgement of having accepted the payment.

32.1 Therefore, the stand taken before us by the official respondents/revenue, that this was a voluntary payment, based on self-ascertainment of tax, interest and penalty, is not established, as the regime incorporated under the provisions of Section 73/74 of the 2017 Act and the 2017 Rules, adverted to hereinabove, has not been adhered to.

33. Besides this, the following circumstances reveal, that the amounts deposited [the cumulative sum being Rs.1,80,10,000/-] did not have an element of voluntariness attached to it.

33.1 There is no dispute, that Rs.1,80,10,000/- was deposited in four (4) tranches in the prescribed format i.e., GST DRC-03, on the dates and at the time set forth hereinbelow:

? Rs. 35,00,000/- vide Form GST DRC-03 dated 17.02.2022 at 01:28 AM

? Rs. 1,00,00,000 vide Form GST DRC-03 dated 17.02.2022 at 02:15 AM

? Rs. 20,25,000/- vide Form GST DRC-03 dated 17.02.2022 at 05:04 AM

? Rs. 24,85,000/- vide Form GST DRC-03 dated 17.02.2022 at 07:03 AM

34. It is also not in dispute, that the search proceedings commenced on 16.02.2022 at about 03:30 PM and were concluded on the following day i.e., 17.02.2022 at 09:30 A.M.

35. The fact, that deposits were made [during the early hours of 17.02.2022] when the search had not concluded, would show that the payments were not voluntary. The deposits made were not aligned with provisions of sub-section (5) of Section 73 or sub-section (5) of Section 74.

36. As noted above, if the payments/deposits were voluntary, then an acknowledgement of having received the payment should emanate from the proper officer, as mandated in the prescribed form i.e., GST DRC-04, as prescribed under sub-section (2) of Rule 142 of the 2017 Rules.

36.1 The official respondents/revenue, in our opinion, have not been able to discharge this burden.

37. The malaise of officials seeking to recover tax dues (in contrast to voluntary payments being made by assesses towards tax dues) during search, inspection or investigation was sought to be addressed by the GST–Investigation, CBIC via Instruction No. 01/2022-2023 dated 25.05.2022. For the sake of convenience, the said instruction is extracted hereafter:

“Date:25th May, 2022

Instruction No. 01/2022-23 [GST – Investigation] Subject: Deposit of tax during the course of search, inspection or investigation- reg.

1. During the course of search, inspection or investigation, sometimes the taxpayers opt for deposit of their partial or full GST liability arising out of the issue pointed out by the department during the course of such search, inspection or investigation by furnishing DRC-03. Instances have been noticed where some of the taxpayers after voluntarily depositing GST liability through DRC-03 have alleged use of force and coercion by the officers for making 'recovery' during the course of search or inspection or investigation. Some of the taxpayers have also approached Hon'ble High Courts in this regard.

2. The matter has been examined. Board has felt the necessity to clarify the legal position of voluntary payment of taxes for ensuring correct application of law and to protect the interest of the taxpayers. It is observed that under CGST Act, 2017 a taxpayer has an option to deposit the tax voluntarily by way of submitting DRC-03 on GST portal. Such voluntary payments are initiated only by the taxpayer by logging into the GST portal using its login id and password. Voluntary payment of tax before issuance of show cause notice is permissible in terms of provisions of Section 73(5) and Section 74 (5) of the CGST Act, 2017. This helps the taxpayers in discharging their admitted liability, self-ascertained or as ascertained by the tax officer, without having to bear the burden of interest under Section 50 of CGST Act, 2017 for delayed payment of tax and may also save him from higher penalty imposable on him subsequent to issuance of show cause notice under Section 73 or Section 74, as the case may be.

3. It is further observed that recovery of taxes not paid or short paid, can be made under the provisions of Section 79 of CGST Act, 2017 only after following due legal process of issuance of notice and subsequent confirmation of demand by issuance of adjudication order. No recovery can be made unless the amount becomes payable in pursuance of an order passed by the adjudicating authority or otherwise becomes payable under the provisions of CGST Act and rules made therein. Therefore, there may not arise any situation where "recovery" of the tax dues has to be made by the tax officer from the taxpayer during the course of search, inspection or investigation, on account of any issue detected during such proceedings. However, the law does not bar the taxpayer from voluntarily making payment of any tax liability ascertained by him or the tax officer in respect of

such issues, either during the course of such proceedings or subsequently.

4. Therefore, it is clarified that there may not be any circumstance necessitating 'recovery' of tax dues during the course of search or inspection or investigation proceedings. However, there is also no bar on the taxpayers for voluntarily making the payments on the basis of ascertainment of their liability on non-payment/ short payment of taxes before or at any stage of such proceedings. The tax officer should however, inform the taxpayers regarding the provisions of voluntary tax payments through DRC-03.

5. Pr. Chief Commissioners/ Chief Commissioners, CGST Zones and Pr. Director General, DGGI are advised that in case, any complaint is received from a taxpayer regarding use of force or coercion by any of their officers for getting the amount deposited during search or inspection or investigation, the same may be enquired at the earliest and in case of any wrongdoing on the part of any tax officer, strict disciplinary action as per law may be taken against the defaulting officers.

(Vijay Mohan Jain)

Commissioner (GST-Inv.),

CBIC"

38. It appears that this Instruction was issued by the GST-Investigation Wing, CBIC, in the backdrop of an order dated 16.02.2021, passed by the Gujarat High Court in the matter of Bhumi Associate v. Union of India MANU/GJ/0174/2021, whereby the following wholesome directions were issued-

"The Central Board of Indirect Taxes and Customs as well as the Chief Commissioner of Central/State Tax of the State of Gujarat are hereby directed to issue the following guidelines by way of suitable circular/instructions:

(1) No recovery in any mode by cheque, cash, e-payment or adjustment of input tax credit should be made at the time of search/inspection proceedings under Section 67 of the Central/Gujarat Goods and Services Tax Act, 2017 under any circumstances.

(2) Even if the assessee comes forward to make voluntary payment by filing Form DRC-03, the assessee should be asked/ advised to file such Form DRC-03 on the next day after the end of search proceedings and after the officers of the visiting team have left the premises of the assessee.

(3) Facility of filing [a] complaint/ grievance after the end of search proceedings should be made available to the assessee if the assessee was forced to make payment in any mode during the pendency of the search proceedings.

(4) If complaint/ grievance is filed by assessee and officer is found to have acted in defiance of the afore-stated directions, then strict disciplinary action should be initiated against the concerned officer."

38.1 It is important to note, that while in line with the directions contained in Bhumi Associate, the aforementioned Instruction i.e., Instruction No. 01/2022-2023 dated 25.05.2022 inter alia, provides, as noticed above, that no recovery of tax should be made during search, inspection or investigation unless it is voluntary- it does not elaborate on various modes for collection adopted in such circumstances, for example via cheque, cash, e-payment or even via adjustment of input tax credit.

39. Furthermore, the Instruction falls short, inasmuch as it sidesteps direction number two (2) contained in Bhumi Associate, which states that even if the assessee comes forward to make voluntary payment in the prescribed form i.e., GST DRC-03, he/she should be advised to file the same the day after the search has ended and the concerned officers have left the premises of the assessee.

39.1 Clearly, the aforementioned direction, issued by the Gujarat High Court as far back as on 16.02.2021, is binding on the official respondents/revenue, which was not followed in the instant case.

39.2 The violation of the safeguards put in place by the Act, Rules and by the Court, to ensure that unnecessary harassment is not caused to the assessee, required adherence by the official respondents/revenue, as otherwise, the collection of such amounts towards tax, interest and penalty would give it a colour of coercion, which is not backed by the authority of law.

40. In this case, the argument of Mr Kumar, that the objection concerning the amounts deposited was raised only after the summon dated 13.04.2022 was issued, in our opinion, would not help the cause of the official respondents/revenue. The reason is, that if a procedure is prescribed under a statute or by law, that is, via dicta contained in a judgment, it has to be followed to the tee.

40.1 Failure to follow the prescribed procedure will, as in this case, have us conclude that the deposit of tax, interest and penalty was not voluntary.

41. The reason that the officers of the official respondents/revenue have been asked, perhaps, to have the amounts deposited the day after the search is concluded, is, to also give space to the concerned person to seek legal advice, and only thereafter deposit tax, interest and penalty, wherever applicable, upon a proper self-ascertainment.

41.1 Undoubtedly, in this case, no such elbowroom was made available.

Conclusion:

42. Therefore, as alluded to hereinabove, we are persuaded to hold, that the aforementioned amounts which were deposited on behalf of the petitioner-concern, lacked an element of voluntariness.

43. Given this position, we are inclined to direct the official respondents/revenue to return Rs.1,80,10,000/- to the petitioner-concern, along with interest at the rate of 6% (simple) per annum.

44. The interest will run from 17.02.2022 till the date of payment.

45. The amount will be remitted to the petitioner-concern within ten [10] days of receipt of copy of the judgment.

46. Since we are in respectful agreement with the directions contained in Bhumi Associate, we direct the CBIC to align Instruction No. 01/2022-2023 dated 25.05.2022 with the directions issued by the Gujarat High Court in Bhumi Associate.

47. The writ petition is disposed of in the aforesaid terms.